RESTRICTION REQUIREMENT

The Examiner has required restriction to one of the following inventions:

I Claims 77-84, drawn to a pharmaceutical or cosmetic composition and a method of treating a skin or mucosa diseases comprising administering the composition comprising the compounds defined in claims 77 and 78;

II Claims 77-84, drawn to a pharmaceutical or cosmetic composition and a method of treating acute neuronal diseases comprising administering a composition comprising the compounds defined in claims 77 and 78;

III Claims 77-84, drawn to a pharmaceutical or cosmetic composition and a method of treating a chronic neuronal disease comprising administering a composition comprising the compounds defined in claims 77 and 78;

IV Claims 77-84, drawn to a pharmaceutical or cosmetic composition and a method of treating a chronic obstructive pulmonal disease comprising administering a composition comprising the compounds defined in claims 77 and 78;

V Claims 77-84, drawn to a pharmaceutical or cosmetic composition and a method of treating prostate carcinoma and other tumors, and metastases comprising administering a composition comprising the compounds defined in claims 77 and 78;

VI Claims 77-84, drawn to a pharmaceutical or cosmetic composition and a method of treating heavy acute respiratory Syndrome (SARS) comprising administering a composition comprising the compounds defined in claims 77 and 78;

VII Claims 77-84, drawn to a pharmaceutical or cosmetic composition and a method of treating a sepsis and sepsis-like conditions comprising administering a composition comprising the compounds defined in claims 77 and 78;

VIII Claims 85-96, drawn to a stent coated with a composition comprising a compound defined in claims 77 and 78 and a method of using the same.

IX Claims 85, 86, 88 and 89, drawn to a method of treating atherosclerosis, arterial inflammation, reperfusion syndrome and stent restenosis comprising administering a composition containing a compound defined in claim 77 and 78, wherein the method is other than those defined in group VIII and group IX.

X Claims 94-96, drawn to a method of preventing or treating a n inflammation reaction at, or caused by, a medical device implanted into an organism, wherein the method is other than those defined in group VIII and group IX.

The Examiner further has required an election of species within each of the above Groups of invention, i.e., to one of the groups of compounds of formulae A1 to A14.

ELECTION

As an initial matter, Applicants note that the present Restriction Requirement does not relate to the claims currently of record, i.e., the claims which were submitted with the Second Preliminary Amendment filed May 29, 2009, i.e., about one week before the mailing date of the Restriction Requirement. In view thereof, the undersigned contacted Examiner Wang by telephone and was told that the requests for election set forth in the Restriction Requirement are not affected by the new claims and that a response thereto should be filed.

Accordingly, in order to be responsive to the Restriction Requirement, Applicants elect, with traverse the invention set forth in **Group III, i.e.,** drawn to a pharmaceutical or cosmetic composition comprising the compounds defined in (new) claims 97and 98 and a method of treating a **chronic neuronal disease** comprising administering a composition comprising the compounds defined in (new) claims 97 and 98.

Further, since the claims currently of record recite exclusively compounds of formula **A1**, no further election is necessary.

Currently, at least claims 97-104 read on the elected invention/species.

TRAVERSE

Applicants respectfully submit that a restriction requirement is inappropriate in this case. Even if one were to assume, *arguendo*, that the inventions of Groups I to X are distinct, the requirement for restriction should be withdrawn, because there is no serious burden.

In MPEP Chapter 800, the Office sets forth its policy by which examiners are guided in requiring restriction under 35 U.S.C. § 121. Section 803 states that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

Applicants note that inventions I to X identified in the Restriction Requirement all relate to a pharmaceutical or cosmetic composition which comprises compounds of formula A1 and to methods of treating certain conditions with these compounds/compositions. Accordingly, as a practical matter, the searches for inventions I to X should significantly overlap.

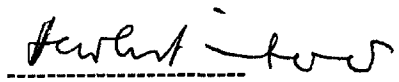
For example, a search for methods of treating acute neuronal diseases comprising administering a composition comprising the compounds defined in claims 97 and 98 should significantly overlap, if not be substantially coextensive with, a search for methods of treating chronic neuronal diseases comprising administering a composition comprising the compounds defined in claims 97 and 98. Thus, the burden would clearly not be serious if both inventions II and III were searched and examined at the same time.

For the above reasons alone, the Restriction Requirement should be withdrawn, which action is respectfully requested.

The Examiner further is reminded of the rejoinder practice set forth in MPEP § 821.04, i.e., if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend or otherwise include all of the limitations of the allowable product claim will be rejoined.

Should there be any questions, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

Respectfully submitted,
Siegfried ANSORGE et al.



Heribert F. Muensterer
Reg. No. 50,417

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GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191